

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Paul Singleton, #228204,)	
)	C/A No. 0:09-0350-MBS
Petitioner,)	
)	
vs.)	O R D E R
)	
Warden McKeither Bodison,)	
)	
Respondent.)	
_____)	

Petitioner Paul Singleton is an inmate in custody of the South Carolina Department of Corrections (SCDC) who currently is housed at Lieber Correctional Institution in Ridgeville, South Carolina. On February 23, 2009, Petitioner, proceeding pro se, filed the within petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

This matter is before the court on motion for summary judgment filed by Respondent Warden McKeither Bodison on July 2, 2009. By order July 6, 2009, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Petitioner was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. On July 27, 2009, Petitioner filed a motion to dismiss. Petitioner informs the court that he has filed an appeal from the denial of his second post-application relief application, and thus he contends that he has not exhausted his state remedies as mandated by § 2254(c). Respondent filed no response in opposition to Petitioner's motion to dismiss.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for pretrial handling. The Magistrate Judge issued a Report and Recommendation on November 2, 2009, in which she recommended that Petitioner's

motion to dismiss be granted and that Respondent's motion for summary judgment be terminated by the Office of the Clerk of Court. No party filed objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has thoroughly reviewed the record and the Report and Recommendation. The court adopts the Report and Recommendation and incorporates it hereby by reference. Accordingly, Petitioner's motion to dismiss (Entry 23) is **granted**, *without prejudice*. The Office of the Clerk of Court shall terminate Respondent's motion for summary judgment.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

November 30, 2009.